

## Application by Keadby Generation Limited for an Order Granting Development Consent for the Keadby 3 Low Carbon Gas Power Station Project

### The Examining Authority's written questions and requests for information (ExQ1)

Issued on 14 December 2021

Please find below answers to the Examining Authority's written questions from the Environment Agency (EA) [ref no. KDB3-SP091].

Ref No.	Question	EA response
<b>1</b>	<b>General and Cross-topic Questions</b>	
Q1.1.4	Each aspect chapter of the ES includes a section on 'Mitigation, Monitoring and Enhancement Measures'. ES Appendix 20A provides a Schedule of Commitments [APP-098] setting out the mitigation relied upon in the ES and the mechanism by which it is secured. In many instances the Applicant relies on an Environmental Permit (EP) to mitigate effects, however the Environment Agency (EA) states that no EP application has been received [AS-002]. Bearing this in mind, could the Applicant advise what their timeline is for the submission of the EP application and what stage they have reached in terms of making such an application.	The EA can confirm that an application to vary permit EPR/YP3133LL/V011 has been received. Unfortunately, due to the high volume of permit applications received during the last 12 months, and limited staff resources, the EA cannot currently provide any indication of the timescale for its determination.
Q1.1.7	The ExA notes the Applicant's: Framework Construction Environmental Management Plan (Framework CEMP) [APP-0160]; Framework Construction Traffic Management Plan [APP-0161]; and Framework Construction Workers Travel Plan [APP-0162] and would ask the Local	The EA has reviewed the Framework CEMP and is of the view that the content of this document is satisfactory, bearing in mind the current point in the submission process the Proposed Development has reached.  The EA has not reviewed the Framework Construction

Ref No.	Question	EA response
	<p>Planning Authority (LPA) and The EA whether they are satisfied with the content of those documents, bearing in mind the current point in the submission process the Proposed Development has reached.</p>	<p>Traffic Management Plan, or the Framework Construction Workers Travel Plan as these issues do not fall within its remit.</p>
<b>2</b>	<b>Air Quality and Emissions</b>	
Q1.2.4	<p>The ExA notes the use of Amine products within the proposed Carbon Capture element of the Proposed Development and would ask:</p> <ul style="list-style-type: none"> <li>i) by what mechanisms are the use of Amine products controlled (ie do they form part of the EP controls; and</li> <li>ii) should the control of Amine products be dealt with through the DCO.</li> </ul>	<p>Amine products are controlled through an environmental permit (i.e. emission limits included to protect the environment and human health) and should not, therefore, be dealt with through the DCO.</p>
Q1.2.7	<p>The ExA would draw the attention of NLC, the EA and the C&amp;RT to ES Chapter 8 (Air Quality) [<a href="#">APP-051</a>] and the criteria for assessment of magnitude, sensitivity, and risk for construction dust, which are summarised in Tables 1 – 6 Appendix 8A: Air Quality – Construction Phase [<a href="#">APP-069</a>]. The criteria identified accord with the IAQM guidance. The ES states that the IAQM guidance on construction dust does not provide criteria for establishing significant effects on receptors, rather a means to determine the level of mitigation required, and that application of appropriate mitigation should ensure that residual effects will normally be 'not significant'. However, the guidance also states that there may be cases where even with other mitigation measures in place there</p>	<p>Air Quality during the construction phase does not fall within the EA's remit so it would not be appropriate to comment on whether or not the proposed dust mitigation measures are sufficient.</p>

Ref No.	Question	EA response
	<p>may be a significant effect, and that therefore it is important to consider the specific characteristics of the site and the surrounding area to ensure that the conclusion of no significant effect is robust. In the light of the above, the ExA seeks confirmation from the NLC, the EA and the C&amp;RT that they consider the proposed dust mitigation measures to be sufficient.</p>	
Q1.2.11	<p>In light of the high level of uncertainty within the Atmospheric Dispersion Modelling System (ADMS) amines chemistry model, can the EA/HSA confirm that the assumptions made are reasonable and represent a highly conservative set of parameters as portrayed by the Applicant in their Application documents at Appendix 8C Air Quality Assessment of Amine Degradation Products [<a href="#">APP-071</a>].</p>	<p>The EA has not undertaken a detailed review of the Appendix 8C and will only be able to do this during the permit determination process.</p> <p>However, the EA can advise that wind speed and direction data is available for the Scunthorpe Town AURN air quality monitoring site from North Lincolnshire Council: <span style="background-color: black; color: black;">[REDACTED]</span>. This monitoring site is closer to the application site than Doncaster Airport.</p> <p>Also, for background data, the Scunthorpe Town AURN is closer. It is not appropriate to use data from Low Santon as this air quality monitoring station is in a unique industrial setting, adjacent to and downwind of England's sole remaining Integrated Iron and Steelworks and within an Air Quality Management Area (AQMA) for PM10 – exceedances of the 24-Hour Mean. Please note that Scunthorpe Town AURN is also within the same AQMA.</p>
Q1.2.16	<p>The comments of the EA as set out in question (Q1.2.15) above are noted. However, the ExA would ask the EA to express an opinion as to</p>	<p>It is the EA's view that more specific reviews should take place. An Environmental Permit would not be determined without this information. Controls would then be set</p>

Ref No.	Question	EA response
	whether more specific reviews should take place and whether the EA are satisfied that they can adequately control emissions, especially those arising from the use of Amine products, within any EP they may grant.	within the Environmental Permit.
<b>3</b>	<b>Biodiversity, Ecology and Natural Environment</b>	
Q1.3.1	The EA's comments in its Additional Submission [ <a href="#">AS-002</a> ], including a recommendation related to water voles and recommendation that suitable habitat outside of the Proposed Development site are also surveyed to inform any mitigation strategy. This is so that a fuller understanding of the population in the wider landscape can be gained. The EA consider such surveys will also help to inform potential sites for water voles to be displaced or translocated into. Bearing in mind ideal timings for water vole surveys to be undertaken, can the Applicant advise whether such surveys could be undertaken and reported upon with the findings being submitted for consideration with acceptable remaining time in this Nationally Significant Infrastructure Project Examination period? If the above is not possible, please could the Applicant/ EA indicate how this matter can be acceptably resolved, to the satisfaction of the parties involved. (ie can it be acceptably resolved through the imposition of Rs within the DCO or similar).	<p>The EA's recommendation to undertake surveys outside of the Proposed Development site in the wider landscape is a longer-term requirement that will be necessary to ensure the development remains legally compliant with environmental legislation as the development progresses. The EA recommends that these are done as early as possible to ensure the best possible outcome for protected species (most notably, water vole).</p> <p>As such, it may be appropriate to adjust the wording of Requirement 6(2)(a) to include the wider landscape so that this matter can be resolved.</p>
Q1.3.2	The EA have submitted comments as an additional submission [ <a href="#">AS-002</a> ] with respect to R6(1) and recommend that due to the motility	The EA is primarily interested in updated surveys for water vole, otter and invasive non-native species. All of these are specified in section 4.2 of the LBMEP.

Ref No.	Question	EA response
	<p>of species and time lapse between any DCO being granted and the start of construction, further survey works should be carried out for all protected species highlighted as being present or potentially present on or surrounding the Proposed Development site. They also state that surveys should be no more than 3 years old at the time when construction begins and should include sites where previous surveys found no evidence (unless the site has been deemed as unsuitable and has not changed in the interim period). The ExA notes the Applicant's Landscaping and Biodiversity Management and Enhancement Plan (LBMEP) [APP-039], which includes reference at section 4.2 to protected species and invasive species update surveys. However, the ExA would ask the Applicant to provide a detailed response to the EA's advice on the need for updated surveys before construction begins. In addition to the above, the ExA would ask the EA and NE whether the LBMEP [APP-039] includes all the protected species and invasive species update surveys they would like to see additional surveys undertaken in regard to.</p>	
<b>6</b>	<b>Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b>	
Q1.6.3	<p>Are any Affected Persons or IPs aware of any inaccuracies in the BoR [APP-007], Statement of Reasons [APP-008] or Land Plans [APP-011]?</p>	<p>Despite references in the BoR, the EA has no formal interest in plots 1, 2, 4, 5, 6, 7, 8, 9, 66, 88, 91, 92, 93, 95, 97 - 110, 113, 171.</p>
Q1.6.5	<p>The BoR [APP-007] includes a number of Statutory Undertakers with interests in land. The ExA would ask the Applicant to:</p>	<p>The EA carries out maintenance works at plots 27 and 28 under powers contained in the Water Resources Act 1991, Section 165 and will continue to do so – there are no</p>

Ref No.	Question	EA response
	i) Provide a progress report on negotiations with each of the Statutory Undertakers listed in the BoR, with an estimate of the timescale for securing agreement with them; ii) State whether there are any envisaged impediments to the securing of such agreements; and iii) State whether any additional Statutory Undertakers have been identified since the submission of the BoR and whether the latest version of the BoR includes any recently identified Statutory Undertakers.	<p>outstanding issues in respect of these plots.</p> <p>Negotiations re granting the Applicant easements on plots (3, 10, 26, 30, 31, 46, 47, 52, 53, 54) under the freehold ownership of the EA are at an early stage.</p> <p>Further clarity is being sort in respect of the impact of the works/DCO on EA easements and/or rights of way in respect of Plots 75, 76, 77, 80, 80a, 96, 156 and 157.</p> <p>It is, therefore, not possible to state whether there are any impediments to securing agreements at the current time.</p>
Q1.6.9	Are any 'Affected Persons' and/ or 'IPs' aware of: i) any reasonable alternatives to any CA or TP sought by the Applicant; or ii) any areas of land or rights that the Applicant is seeking the powers to acquire that they consider are not needed?	<p>The EA has no view on this currently.</p>
Q1.6.23	Do you consider all potential impediments to the development have been properly identified and addressed? Additionally, are there concerns that any matters, either within or outside the scope of the dDCO, that would prevent the development becoming operational may not be satisfactorily resolved? This includes matters related to acquisitions, consents, resources or other agreements?	<p>The EA is not currently in a position to say whether all potential impediments have been identified and addressed. The EA still requires clarification regarding the Applicant's intention for plots where it currently has the benefit of easements, as outlined in answer to Q1.6.5 above.</p> <p>The Applicant has correctly identified in Section 14 of its "Schedule of Other Consents and Licences" (<a href="#">APP-033</a>) when an Environmental Permit for flood risk activities will</p>

Ref No.	Question	EA response
		be required from the EA.
<b>9</b>	<b>Noise and Vibration</b>	
Q1.9.4	The ExA notes the Applicant's considerations regarding CO2 and other venting during commissioning and operation, as set out in paragraphs 9.6.52 of ES Chapter 9 (Noise and Vibration) [APP-052]. The ExA also notes the venting system will include larger vents sized to safely dispose of larger volume emissions in an emergency scenario and that the sizing of these vents is subject to ongoing work and would be confirmed at detailed design stage. The ExA would ask the EA whether they are satisfied that noises associated with the potential CO2 venting would be adequately controlled through an EP issued by them.	<p>Noise emissions in general are controlled by the use of a condition, which reads: "<i>Emissions from the activities shall be free from noise and vibration at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved noise and vibration management plan to prevent or where that is not practicable to minimise the noise and vibration</i>".</p> <p>It is expected that any emergency venting would be subject to Notification requirements. Notification requirements are a provision within the permit for the reporting of abnormal or other conditions.</p>
<b>16</b>	<b><u>Draft Development Consent Order</u></b>	
Q1.16.13	Art 8 (Application and Modification of Statutory Provisions) – The provisions of Art 8(3) are noted, but the ExA would seek the comments of the C&RT, the EA, the Relevant Port Authority, and the relevant Internal Drainage Board in relation to this Art/ sub-paragraph.	In clause 8.3 of the draft Development Consent Order the Applicant seeks to disapply byelaws made under s66 of the Land Drainage Act 1991. The relevant byelaws which the EA enforce are the Anglian Water Authority Land Drainage and Sea Defence Byelaws. We would like clarification from the Applicant which of these byelaws it wishes to disapply, the reason for seeking disapplication and the justification for it.
Q1.16.18	(C&RT, EA, Port Auth, IDB) Art 14 (Discharge of Water) – The provisions of this Art 14 are noted, but the ExA would seek the comments of the C&RT, the EA, the Relevant Port Authority, and the relevant Internal Drainage Board in regard to this Art, especially Art 14(8).	The EA has no objection to the wording of this Article as the Applicant acknowledges an environmental permit for the discharge of water will still be required from the EA.

Ref No.	Question	EA response
Q1.16.23	Art 19 (CA of land) – The ExA would ask whether after the wording “As from the date on which a CA notice is served...” as set out in Art 19(2) explicit reference to the relevant section, of the relevant Act, should be made? If amended the sub-paragraph would read: “From the date on which a CA notice is served pursuant to section 134 (notice of authorisation of CA) of the 2008 Act...”	The EA supports the ExA’s suggested amended wording for Article 19.
Q1.16.24	Art 19 (CA of land) – The ExA would seek the views of the Applicant, ‘IPs’ and ‘Affected Persons’ as to whether additional wording, as set out below, should be added to the end of Art 19(2): “.... so far as their continuance would be inconsistent with the exercise of that new right.” The ExA would ask whether adding this wording provides additional qualification, insofar as that additional wording means that the power does not extinguish rights which might continue to be consistent with the use of the compulsorily acquired land, for example where its anticipated that an old right of way would continue to exist across the newly acquired land.	The EA supports the ExA’s suggested wording to be added to the end of Art 19(2), although there may be difficulties in identifying what rights would be consistent with the new use.
Q1.16.37	Schedule 2 (Rs) – R5 (Detailed Design) – The EA advise [ <a href="#">AS-002</a> ] that the protective measures for eels included in R5 are suitable for the smallest life stages of the species, and a fish mitigation strategy/working method statement to ensure suitable protection would also be appropriate to include as part of R6(2), although this may be more appropriate to	<p>The EA expects to find the smallest eel life-stage at this location in the catchment (glass eel/elver).</p> <p>With respect to the fish mitigation strategy / working method statement; the EA will be able to comment and advise on this once further (more specific) details of what works will actually be taking place, i.e. the chosen abstraction option and the works associated with achieving</p>



Ref No.	Question	EA response
	incorporate into the method statement required by Condition 11 in the DML. Can the EA clarify the necessary content of the fish mitigation strategy and can the Applicant comment on the EA's request.	this, are available. For works occurring in and / or close to water, the EA need to ensure that any risks to fish etc. are suitably managed.
Q1.16.44	Having regard to R6 (landscaping and biodiversity protection management and enhancement) the ExA would ask the Applicant and NLC, together with any other IPs, whether there should be a provision requiring the landscaping and biodiversity protection plan to be updated at relevant intervals, for the lifetime of the Proposed Development, and for the updated landscaping and biodiversity protection plan to be submitted to, and approved in writing by, NLC within agreed timescales.	<p>The EA does not wish to stipulate at what interval any updates to the landscaping and biodiversity protection plan should be undertaken. However, by virtue of the requirements of R6, updates may be required as a consequence of updated surveys due to the natural evolution of the habitats and the motility of species.</p> <p>Any updates that affect the implementation of the landscaping or biodiversity protection plan should be submitted to and approved in writing by, NLC within agreed timescales.</p>
Q1.16.57	<p>Schedule 2 (Rs) – R32 (Combined heat and power) – R32(1) specifies the "...development must not be brought into commercial use until the LPA has given notice that it is satisfied that the undertaker has allowed for space and routes within the design of the authorised development for the later provision of heat pass-outs for off-site users of process or space heating and its later connection to such systems..." This R does not appear to require a scheme for the provision of steam or hot water pass-outs to be submitted to and approved by the LPA, nor does the R generally require:</p> <p>i) the scheme submitted to comply, as a minimum with the conditions relating</p>	<p>The EA has not undertaken a detailed review of the Combined Heat and Power Readiness Assessment (APP-036) as this will only be undertaken during the Environmental Permit determination process (i.e. to demonstrate the use of Best Available Techniques). As such, once an Environmental Permit has been issued, the operator will be required to carry out periodic reviews of opportunities for the supply of heat to realise CHP. Therefore, the EA defers to the Local Planning Authority's view in respect of the adequacy of Requirement 32 from a planning perspective.</p>

Ref No.	Question	EA response
	<p>to steam and hot water pass-outs within any EP granted in respect of the authorised development; or</p> <p>ii) specify a minimum diameter for the pipeline connection within the reserve space being provided to suitably accommodate pipeline connection(s).</p> <p>Bearing the above in mind, the ExA would ask:</p> <p>a) the Applicant to advise why the R does not require a scheme for the provision of steam or hot water pass-outs to be submitted to and approved by the LPA;</p> <p>b) the Applicant to advise why items i) and ii), specified above, are not considered necessary to be specified within the dDCO;</p> <p>c) the LPA and EA whether they are satisfied with the wording and trigger points (ie ‘...not being brought into commercial use...’) as set out within this R? and</p> <p>d) the LPA and EA whether the wording of this R is generally acceptable to them?</p>	